

Sixth Appellate District

San Jose, California

MONDAY, JANUARY 26, 2004

H026245 PEOPLE v. LEGALL

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Mihara, J.)

Filed January 26, 2004

H026198 PEOPLE v. BAILEY

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed January 26, 2004

H026257 PEOPLE v. ROGERS

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed January 26, 2004

H025430 PEOPLE v. TORRES

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed January 26, 2004

H026008 PEOPLE v. SOLIS

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Mihara, J.)

Filed January 26, 2004

H025912 In re STEPHANIE G., et al.; DFCS v. STEPHANIE G.

The order of the juvenile court terminating parental rights
is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,
Mihara, J.)

Filed January 26, 2004

TUESDAY, JANUARY 27, 2004

H024732 PEOPLE v. KING, et al.

The judgments are affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed January 27, 2004

Sixth Appellate District

San Jose, California

Tuesday, January 27, 2004 (Continued)

H024504 PEOPLE v. MICHAEL ADAMS

The judgment is affirmed. (published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed January 27, 2004

H024442 PEOPLE v. BAUTISTA, et al.

H026395 In re BAUSTISTA on Habeas Corpus

As to the appeals, the judgments are affirmed. As to the petition for a writ of habeas corpus, we issue an order to show cause to the trial court for a reference hearing to take evidence and resolve factual issues relating to defendant's legal advice at the time of his plea. A report shall be made to this court at the conclusion of the reference hearing. (*In re Ross* (1995) 10 Cal.4th 184.) (published)
(Premo, J.; We concur: Rushing, P.J., Bamattre-Manoukian, J.)
Filed January 27, 2004

H023179 CONNOLLY v. JACKSON

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed January 27, 2004

H026020 In re ANILA K.; DFCS v. ANN K.

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated January 21, 2004, is hereby vacated as having been improvidently issued.

Dated: January 27, 2004 Rushing, P.J.

H026004 PEOPLE v. OLIVOS

The abstract of judgment is ordered corrected to reflect that the trial court imposed a six-year term on count 2, a consecutive term of eight months (one-third of the middle term) on count 3, and a stayed sentence on count 1, for a total term of six years, eight months. As so corrected, the judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)
Filed January 27, 2004

Sixth Appellate District

San Jose, California

Tuesday, January 27, 2004 (Continued)

H026015 PEOPLE v. CARDENAS

The judgment is reversed and the matter is remanded for resentencing. Upon resentencing, the trial court shall determine whether counts 2 and 3 (forcible oral copulation, § 288a, subd. (c)(2)) were committed on a "single occasion" (§ 667.61, subd. (g)) under the standard articulated in *People v. Jones* (2001) 25 Cal.4th 98. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed January 27, 2004

H025400 MARRIAGE of POSKATCHEEV & POSKATCHEEVA

The order on Wife's OSC to vacate the default judgment is reversed. The trial court is directed to vacate its previous order and enter a new order (1) granting Wife's OSC and vacating the default judgment to the extent that it purports to adjudicate property rights; and (2) denying the OSC as to spousal support and all other relief requested. The trial court shall direct Husband to file and serve an amended petition invoking the court's jurisdiction to determine the parties' property rights. The parties may then proceed to adjudicate or settle the property issues relating to the marriage. Wife shall have her costs on appeal. (not published)

(McAdams, J.; We concur: Rushing, P.J., Premo, J.)

Filed January 27, 2004

H026194 PEOPLE v. GARAY

The judgment is ordered modified by reducing the \$800 restitution and parole revocation fines to \$200 each. As so modified, the judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed January 27, 2004

WEDNESDAY, JANUARY 28, 2004

H025372 In re ISIDRO SANCHEZ on Habeas Corpus

(Filed order modifying opinion.) There is no change in the judgment. Appellant's petition for rehearing is denied.

(Rushing, P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed January 28, 2004

Sixth Appellate District

San Jose, California

Wednesday, January 28, 2004 Continued)

H025412 PEOPLE v. AYALA

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed January 28, 2004

H025535 MARZANO II, as Custodian, etc., v. EBERLE, et al.

The order appointing Marzano II replacement trustee is reversed. The matter is remanded solely for the trial court to make a finding on whether appointing Union Bank as replacement trustee would be cost-effective given the small value of the trust. If the court finds that appointing Union Bank would not be cost-effective, Marzano II shall be appointed replacement trustee. If the court finds appointing Union Bank would be cost-effective, Union Bank shall be appointed replacement trustee. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed January 28, 2004

THURSDAY, JANUARY 29, 2004

H024605 PEOPLE v. DEHART

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Rushing, P.J., Premo, J.)
Filed January 29, 2004

H026315 PEOPLE v. RIOS

The judgment is vacated and the matter is remanded for the sole purpose of permitting the trial court to exercise its discretion to select the amount of the mandatory restitution fine. If the trial court fixes the restitution fine at \$800 as originally imposed, it shall reinstate the original judgment. If the trial court chooses a different amount, it shall impose a new judgment that includes that amount as the restitution fine. (not published)
(McAdams, J.; We concur: Rushing, P.J., Premo, J.)
Filed January 29, 2004

H025313 BILODEAU v. RUDO

(Filed order modifying opinion.) There is no change in the judgment. (not published)
(Elia, J.; Rushing, P.J., Premo, J.)
Filed January 29, 2004

Sixth Appellate District

San Jose, California

Thursday, January 29, 2004 (Continued)

H025595 PEOPLE v. FITE

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed January 29, 2004

H025698 PEOPLE v. PADOBA

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed January 29, 2004

H025561 PEOPLE v. DANIEL B.

We affirm the court's disposition order. However, the juvenile court shall modify the order of probation filed January 28, 2001, to reflect a restriction on, rather than suspension of, the minor's driving privileges. The court shall further direct the clerk of the superior court to modify the minute order of January 28, 2003, in the same way. (not published)
(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)
Filed January 29, 2004

H025173 PEOPLE v. TENORE

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed January 29, 2004

H025500 PEOPLE v. WESTFALL

The judgment is reversed. If the prosecution does not elect to retry count one within 30 days after remittitur, the trial court shall proceed to resentence appellant on count three. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed January 29, 2004

H024672 PEOPLE v. CARSON

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)
Filed January 29, 2004

Sixth Appellate District

San Jose, California

FRIDAY, JANUARY 30, 2004

H025836 PEOPLE v. BENNETT

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Mihara, J.)
Filed January 30, 2004

H025669 PEOPLE v. LOPES

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Mihara, J.)
Filed January 30, 2004

H024675 PEOPLE v. ORTIZ

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Mihara, J.)
Filed January 30, 2004

H025731 PEOPLE v. ELSTON

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed January 30, 2004

H024930 PEOPLE v. RIFFEL

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Rushing, P.J., Premo, J.)
Filed January 30, 2004

H026120 PEOPLE v. STONE

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Wunderlich, J.)
Filed January 30, 2004

H025887 PEOPLE v. VALENZUELA

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; I concur: Wunderlich, J.; With
Concurring opinion by Mihara, J.)
Filed January 30, 2004

Sixth Appellate District

San Jose, California

Friday, January 30, 2004 (Continued)

H025547 PEOPLE v. HICKS

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,
Mihara, J.)

Filed January 30, 2004